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ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D. C.

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My dear Mr. Lawton:

There is inclosed herewith a draft of proposed legislation "To amend further the Federal Employees' Compensation Act, as amended", together with a copy of a proposed letter to the Congress recommending enactment of this legislation.

This proposal is a part of the Department of Defense Legislative Program for 1952. Your advice is requested as to its relationship to the program of the President.

Sincerely yours,

Marx Leva

Inclosure

Honorable Frederick J. Lawton  
Director,  
Bureau of the Budget

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DRAFT

ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D. C.

My dear Mr. Speaker:

There is forwarded herewith a draft of legislation "To amend further the Federal Employees' Compensation Act, as amended".

Purpose of the Legislation: The purpose of this proposed legislation is to extend to direct-hire civilian employees of the United States benefits similar to those already granted by the government to employees of contractors, persons engaged by contract and employees of post exchanges and ships service stores with respect to disability or death resulting from war risk hazards.

Until several months after United States entry into World War II, no basis had been provided for compensating individuals or their dependents for death, injury or detention resulting solely from the hazard of being exposed to the hostile acts of an enemy. Following the invasion and subjection of Pacific bases by Japan, the matter of compensating the dependents of more than 1200 contractors' employees who had been stationed on Guam, Wake and in the Philippines became acute and the Congress enacted the act of December 2, 1942 (ch. 668, 56 Stat. 1028), hereinafter referred to as the War Risk Hazards Act. Under that statute, the groups enumerated above (except direct-hire civilian employees of the United States), were given 24-hour coverage against enumerated hazards. In form and for purposes of administration, the act is an extension of the Employees' Compensation Act to cover certain named groups for war risk hazards.

War risk coverage for direct-hire personnel was not included in this act and its legislative history does not indicate that such action was ever contemplated. Presumably this was due to the fact that the immediate purpose of the War Risk Hazards Act was to give detention benefits to interned contractor personnel. As a result, therefore, contractors' employees, independent personal service contractors, and exchange employees received the benefits described above for disability, death or detention arising from war risk. Direct-hire employees at overseas bases are given adequate benefits for periods of detention by an enemy by virtue of having been included under the Missing Persons Act, but receive no compensation for disability or death unless found to be in the performance of duty when injury was sustained. The only recourse in the latter case lay in filing a claim with the Bureau of Employees' Compensation. It is known that the Bureau applied a very liberal standard in adjudicating such cases and was generally able to find some basis for holding the individual in performance of duty when injury

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or death resulted from enemy action. The fact remains, however, that in the absence of statutory authority for blanket 24-hour coverage, each case had to be examined individually on its own particular facts and the Departments were never able to extend categorical assurance to new employees that the government would reimburse them or their dependents for disability or death arising from a war risk hazard. In a letter dated November 10, 1950, the Bureau has reaffirmed its previous views in this matter, indicating that blanket coverage is not possible under present law and that each individual claim must be considered in the light of the facts presented.

It is fairly obvious that a major factor in recruiting competent personnel for overseas duty is the protection offered for unusual risk of life or limb. This concern over physical safety remains strong as the result of the fate suffered by civilians employed at Pearl Harbor, Guam, Wake Island and the Philippines. That experience was not repeated in Korea, but the existence of actual hostilities has emphasized the threat to well-being which prevails in many areas. The present position of the United States in international affairs will require that its servants be exposed to the hazards of such outbursts in almost every sector of the world for an undetermined period. Persons of the caliber needed will not risk their own safety or the welfare of their dependents unless assurance can be given that the United States will assume some of the economic burden involved in that risk.

War risk hazard benefits for civilians can be justified most reasonably on the same theory that supports industrial workmen's compensation in general. That is, the employer should bear a substantial part of the economic burden of industrial accident since his interests were being served and the employee was placed in a hazardous position which he would not otherwise have occupied had it not been for his employment. The present policy of the Federal government as an employer in this regard is embodied in the Federal Employees' Compensation Act, as amended most recently in 1949. If legislation were enacted to make that act applicable to war risk hazards as well as injuries suffered during performance of duty, benefits to the individual for disability or detention would be computed at 66 2/3% of basic compensation with an additional 8 1/3% added if the employee has one or more dependents. Surviving dependents of those who die as the result of such hazards would receive benefits as prescribed in the act, varying with relationship and degree of dependency from 25% to a wholly dependent parent to 75% to a widow with three or more minor children. All benefit formulae under the act are subject to a maximum limit of \$525 per month, but continue indefinitely until (1) there has been recovery from disability, or (2) in the case of death, dependency ceases through death, remarriage, or reaching majority. The benefit formulae under the amended act are now sufficiently liberal to meet the recruitment needs of the military departments. Their extension to cover war risk hazards for civilian employees of the United States is readily available to meet the needs outlined above.

Legislative References: There are no bills now before the Congress relating to this subject and none was considered by the 81st Congress.

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Cost and Budget Data: The fiscal implications of this proposal cannot be estimated accurately since its operation will depend entirely upon contingencies which cannot be forecase. If, as has been the happy experience to date in Korea, civilian personnel serving with the armed forces do not become casualties, then the proposal will cost nothing. On the other hand, civil war or armed invasion affecting such populous areas (from the standpoint of Federal employment) as Japan or Western Germany would involve very substantial cost in the form of benefit payments to beneficiaries of the legislation. World War II experience offers little basis for comparison because of differences in the distribution of personnel geographically, generally higher rates of pay upon which benefits would be computed, and lack of data as to how many cases were ruled compensable under the basic Federal Employees' Compensation Act for injury or death resulting from hostile action of enemy forces. In this respect, it should be emphasized that the primary purpose and effect of this proposal is to secure certainty of coverage, rather than liberalization of benefits.

Department of Defense Action Agency: The Department of the Army has been designated as the representative of the Department of Defense for this legislation.

Sincerely yours,

Marx Lova

Inclosure

Honorable Sam Rayburn  
Speaker of the House of Representatives

DRAFT

A BILL

To amend further the Federal Employees' Compensation Act, as amended.

1     Be it enacted by the Senate and House of Representatives of the  
2     United States of America in Congress assembled, That Subsection (g) of  
3     Section 40 of the Federal Employees' Compensation Act (c, 458, 39 Stat.  
4     750), as amended (5 U.S.C. 790(g)), is hereby further amended to read  
5     as follows:

6             "(g) The term "injury" includes, in addition to injury by  
7             accident while in performance of duty (1) disease proximately  
8             caused by the employment, and (2) injury resulting from a war-  
9             risk hazard as defined in section 201(b) of the act of December  
10            2, 1942 (56 Stat. 1033), as amended, incurred by a person covered  
11            by this act while serving outside the continental limits of the  
12            United States or in Alaska during any war in which the United  
13            States may be engaged or as the result of armed hostilities against  
14            the United States or within the borders of any nation wherein such  
15            person may be serving: Provided, That compensation for disability  
16            or death arising out of a war-risk hazard shall not be paid to any  
17            person whose residence is at or in the vicinity of his place of  
18            employment and who is not living there solely by virtue of the  
19            exigencies of his employment, unless the injury is suffered while  
20            actually engaged in the course of employment."

21     Sec. 2. The amendments made by the first section of this Act to the  
22     definition of the term "injury" contained in section 40 of the Federal  
23     Employees' Compensation Act shall apply only to injuries occurring on or  
24     after the effective date hereof.

Missing Persons Act,  
General Revision - OSD #42  
ABJ/71291/auj

DRAFT

Dear Mr. Speaker:

There is forwarded herewith a draft of proposed legislation "To amend the Missing Persons Act, as amended".

This proposal is a part of the Department of Defense Legislative Program for 1952 and it has been approved by the Bureau of the Budget. The Department of Defense recommends that it be enacted by the Congress.

#### Purpose of the Legislation

The present proposal would revise the Missing Persons Act, as amended (50 U.S.C. App. 1001 et seq.), and would provide permanent authority for executive heads of military and other Governmental departments to continue payment of the pay and allowances of military and civilian personnel during periods of absence from their posts of duty in a casualty or missing status, to initiate and discontinue allowances of dependents of such personnel, and to make presumptive findings of death and other determinations under appropriate circumstances.

At the outbreak of hostilities in World War II there was no law which authorized the services to make adequate provision for the dependents of certain categories of persons who for various causes were placed in a missing status. The lack of such legislation during the early months of that emergency not only subjected the dependents to realistic hardship but also confronted the military services with many administrative problems in an attempt adequately and equitably to minister to their needs.

In order to correct this condition the Congress enacted the Missing Persons Act of March 7, 1942 (56 Stat. 143), and the services operated under that law until it was abrogated by Section 3 of the Act of July 25, 1947 (61 Stat. 451). It was realized, however, that there was a continued need for legislation of this type because of the mounting tension throughout the world and the increasing number of international incidents which involved mysterious disappearances or detention of individuals at the will of an unfriendly power or hostile minority; large numbers of civilians as well as military personnel continued to serve within or in the near vicinity of those troubled areas.

Consequently, such legislation was revived by subsection 4 (e) of the Selective Service Act of 1948 (62 Stat. 608). In enacting the Universal Military Training and Service Act, Public Law 51, 82nd Congress (which is in fact an amendment to the Selective Service Act of 1948), the Congress made no change in subsection 4 (e), supra. It is believed that legislation of this type is necessary to meet the present demands of the international situation and would be essential immediately in the event of war; and that such legislation should be of a permanent nature, because the present Act will expire one year subsequent to the ratification of treaties with Germany, Italy and Japan. It is highly essential that we at this time safeguard for the future.

The attached draft of bill is designed to accomplish the following purposes:

- a. To amend subsection 1 (a) (3) of the Missing Persons Act, as amended, in order to assure coverage of the persons employed within the continental United States when their casualty status arises out of performance of duty; to provide that full coverage on a twenty-four hour basis is retained for those employees in overseas areas who are residents of the area and have been placed in a hazardous position by virtue of living there solely for employment purposes; to provide such coverage regardless of whether the employees are full-time, part-time, temporary or intermittent; and to provide that natives or residents of overseas locations are excluded from benefits of the Act unless there was a direct connection between their casualty status and their employment.
- b. To amend Section 12 of the Act to authorize the movement of household goods and personal effects, including privately owned automobiles, of individuals who come within the provisions of the Act, but who have no dependents.
- c. To amend Section 15 of the Act to eliminate reference to its termination date, thereby creating permanent legislation.
- d. To add a new Section 20 to the Act so as to authorize the use of appropriations currently available in the settlement of any claims, rather than the utilization of appropriations retroactively to the year in which the claim originated.

#### Legislative References

There has been no related legislation before the Congress, except H.R. 1199, which became Public Law 131, 82nd Congress. That law amended Section 12 of the Missing Persons Act so as to authorize the transportation of household goods and personal effects, including automobiles, belong to personnel in a missing status, such transportation to be made upon the approved application of a dependent. Section 12, if amended as proposed by the attached draft of bill, would authorize such transportation in cases where the member had no dependents.

#### Cost and Budget Data

Enactment of the proposed legislation would result in the relatively negligible expenditure of public funds during peacetime. It would be most conjectural to approximate the fiscal effects during a period of war.

#### Department of Defense Action Agency

The Department of the Army has been designated as the representative of the Department of Defense for this legislation.

Sincerely,

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A BILL

To amend the Missing Persons Act, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Missing Persons Act (56 Stat. 1143), as amended (50 U.S.C. App. 1001 et seq.), is further amended by changing subsection (a) (3) of section 1 thereof to read as follows:

"(3) civilian officers and employees of the departments, except that persons employed within the continental limits of the United States and persons who are residents of their places of employment in the territories and possessions or in foreign countries shall be included only upon a determination by the head of the department concerned that the status of missing, missing in action, interned in a neutral country, captured by an enemy, beleaguered or besieged, within the meaning of section 2 of this Act, was the proximate result of employment by the department."

SEC. 2. That section 12 of such Act as amended, is further amended to read as follows:

"The dependents and household and personal effects of any person in active service (without regard to pay grade) who is officially reported as dead, injured, missing for a period of 30 days or more, interned in a neutral country, or captured by the enemy, may be moved (including packing and unpacking of household effects) to the official residence of record for any such person, or, upon application by such dependents, to such other location as may be determined in advance or subsequently approved

by the head of the department concerned or by such persons as he may

designate. The cost of such transportation, including packing and unpacking of household effects, shall be charged against appropriations currently available. In lieu of transportation authorized by this section for dependents, the head of the department concerned may authorize the payment in money of amounts equal to such commercial transportation costs for the whole or such part of travel for which transportation in kind is not furnished, when such travel shall have been completed. When the person is in an "injured" status, the movement of dependents or household and personal effects provided for herein may be authorized only in cases where the anticipated period of hospitalization or treatment will be of prolonged duration. No transportation shall be authorized pursuant to this section upon application by dependents unless a reasonable relationship exists between the condition and circumstances of the dependents and the destination to which transportation is requested. Beginning June 25, 1950, and for the purposes of this section only, the terms "household and personal effects" and "household effects" may include, in addition to other authorized weight allowances, not to exceed one privately owned motor vehicle, shipment of which at Government expense is authorized in those cases where the vehicle is located outside the continental limits of the United States or in Alaska."

SEC. 3. That section 15 of such Act is amended to read as follows:

"SEC 15. This Act, except sections 13, 16, 17, and 18, shall be effective from September 8, 1939."

SEC. 4. That such Act is amended by adding at the end thereof a new section to read as follows:

"SEC 20. Any payments made under the provision of this Act are authorized to be paid from appropriations currently available."

SEC. 5. The foregoing amendments shall be effective from the date of

Approval of this Act.